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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,503	07/06/2001	Lawrence W. Hu	GUID012CON	5237

7590 10/19/2004

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EXAMINER

SMITH, JEFFREY A

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,503

Applicant(s)

HU ET AL.

SR

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-15,17-20 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,9,11-15,17-20 and 22-27 is/are allowed.
- 6) ☒ Claim(s) 8,10 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Chaux (U.S. Patent No. 4,852,552).

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Chaux discloses a detachable surgical blade (36, 22, 24). The blade is detachable from a drive mechanism even when said retractor blade is applying force. This is because the blade may be slid longitudinally along elongated second part (34) while the application force during a retraction procedure is directed transverse to said elongated second part (34). A user need only release set screw (62) and slide the blade along the second elongated part (34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hancock (U.S. Patent No. 6,331,157 B2) in view of Cocchia et al. (U.S. Patent No. 6,224,545 B1).

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Hancock discloses (Fig. 1) a surgical retractor blade comprising a body (24), a channel, a curved rail (30), a plurality of slots (37).

The rail has a narrowed region which forms tabs (32) on a top portion.

Hancock does not disclose that the body comprises an engineering polymer.

Cocchia et al. discloses a similar retractor blade comprising engineering polymer (col. 4, lines 55-63).

It would have been obvious to one of ordinary skill in the art to have provided the retractor blade of Hancock to have been comprised of engineering polymer in order to have provided the blades of Hancock as sturdy, surgically acceptable, and disposable (col. 4, lines 55-56).

The recitations "first end adapted to attach to a separate, complete driving mechanism" has been considered. However, such recitation does not patentably distinguish these claims from the structure disclosed by Hancock. This "adapted to" clause does not move to provide the patentable moment necessary in obviating the combination of Hancock and Brief.

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Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chaux (U.S. Patent No. 4,852,552) in view of Cocchia (U.S. Patent No. 6,224,545 B1).

Chaux does not disclose that the blade body comprises a polymer.

Cocchia et al. discloses a similar retractor blade comprising engineering polymer (col. 4, lines 55-63).

It would have been obvious to one of ordinary skill in the art to have provided the retractor blade of Chaux to have been comprised of engineering polymer in order to have provided the blades of Hancock as sturdy, surgically acceptable, and disposable (col. 4, lines 55-56).

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hancock (U.S. Patent No. 6,331,157 B2) and Cocchia et al. (U.S. Patent No. 6,224,545 B1) as applied to claim 30 above, and further in view of Burgin (U.S. Patent No. 4,300,541).

The combination of Hancock and Cocchia et al. does not provide at least one opening.

Burgin, however, in a similar retractor blade (Fig. 4), teaches the provision of at least one opening (120, 124, 128).

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It would have been obvious to one of ordinary skill in the art to have father modified the combination of Hancock and Cocchia et al. to have included at least one opening in order to have inserted reinforcing and stiffening members for the blade (Burgin: col. 5, lines 59-61).

Allowable Subject Matter

Claims 1-6, 9, 11-15, and 17-20, and 22-27 are allowable over the prior art of record.

Response to Arguments

Applicant's arguments with respect to claims 8, 10, and 28-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zhu et al. (U.S. Patent No. 6,425,901 B1) retractors formed of "engineering polymers" that include polypropylene, polyethylene, or polyterephthalate (col. 8, lines 55-61).

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be

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reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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